SMITH IS WORKING ON “DEATH NOTES”

Former Lawyer for Conley Believes These Messages

Will Finally Yield Solu-

Tion to Great Mystery.

William M. Smith, Attorney, who represented the negro factory sweeper, “Jim” Conley, during the investigation of the Mary Phagan murder, and whose statement that he believes his erstwhile client, and not Leo M. Frank, to be the murderer of little Mary Phagan, has brought this mystery into the limelight again, is today working to show Frank’s innocence by demonstrating that the “death notes” found in the basement beside the body of the girl were written by the negro without outside assistance.

Attorney Leonard Haas, one of Frank’s Attorneys, declared Sunday that in the event any new evidence in favor of Frank is developed through Attorney Smith’s investigation, it will probably be used before the governor and Pardoning Board.

Courts Must Act First.

“Nothing can be done until the Supreme Court passes on Frank’s extraordinary motion for a new trial,” Attorney Haas said. “We have prepared and presented what we believed to be the most important evidence to show Frank’s innocence before the Supreme Court, and as the case now stands, we cannot introduce any additional evidence. Furthermore, everything depends entirely on the action of the Supreme Court.”

“If the decision of the courts is adverse to Frank, there will be but one other course open—application for a Pardon or communication before the governor and the Pardoning Board. Then it will be possible for us to present Mr. Smith’s evidence before the Board in his behalf.”

Attorney Haas has not conferred with Attorney Smith, nor has he attempted to learn just what new evidence Conley’s lawyer has developed to swerve him in his opinion. Discussing the case Sunday, Attorney Haas explained that during the entire investigation of the Phagan mystery he believed, as does Attorney Smith now believe, that the positive solution of the mystery was the “death notes.”

Basis of Investigation.

These notes are now the basis of the investigation which Attorney Smith told The Constitution Sunday, that he was working on. He declined to discuss the notes in detail, nor would he say what his theory is based on. He explained, however, that he always entertained suspicion about the notes, and regarded them as the most important link in the long chain of evidence which was offered in the trial of Frank.

Attorney Smith also made the declaration Sunday that he has not conferred with Attorney Leonard Haas nor with Messrs. Luther Z. Rosser, Sr., or Reuben Arnold, Frank’s Attorneys, as to his findings.

Considerable speculation is being indulged in as to whether or not Frank’s Attorneys will call on Mr. Smith to testify as a witness for Frank, in the event it becomes necessary to take the celebrated case before the governor and the Board of Pardons. Opinion among lawyers is divided as to whether or not Smith can take the stand and testify in favor of Frank and against Conley.

Can Conley Be Indicted?

Some say that when Conley was convicted as an accessory to the crime he was placed in a position whereby the state is

powerless to indict him again for murder in the event new evidence is unearthed to prove him

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to be the murderer of the Phagan girl. Other lawyers say that the state can cause the grand jury to indict Conley for the murder of the girl, and that it is within the power of the solicitor to prosecute him for murder and that he can be convicted and hanged. In other words, it is pointed out that Conley was not tried for murder, and he cannot raise the plea of immunity, by the reason of being once placed in jeopardy.

Solicitor Dorsey has nothing to say regarding the latest sensation in the Frank case.

Attorney Haas visited Frank Saturday. They discussed Attorney Smith’s statement briefly and took up other phases in the case.